

## CHAPTER 4

# *House Facilities and Capitol Grounds*

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# ***House Facilities and Capitol Grounds***

## **A. INTRODUCTORY**

### **§ 1. In General; Care, Protection and Use**

The manner in which a particular facility of the House may be used is frequently regulated by a federal statute, federal judicial decision, House rule, or precedent of the House. The discussion in this chapter emphasizes those facilities that are regulated by one or more of the above. While the creation of several special select committees to oversee the management of certain designated House facilities is described below,<sup>(1)</sup> standing committee jurisdiction over the various House facilities is discussed elsewhere.<sup>(2)</sup>

Numerous statutory enactments<sup>(3)</sup> provide for the care, protection, and use of the Capitol building and grounds. The Architect of the Capitol<sup>(4)</sup> supervises the care and superintendence of the Capitol Building,<sup>(5)</sup> including

care of the exterior,<sup>(6)</sup> repairs,<sup>(7)</sup> and in the House side of the Capitol the lighting, heating, and ventilating.<sup>(8)</sup> He also carries into effect the provision prohibiting the use of the Capitol rooms for private studios or works of art, without permission from the Joint Committee on the Library.<sup>(9)</sup>

Privately-owned works of art may not be exhibited in Statuary Hall, the Rotunda, nor in the corridors of the Capitol. 40 USC §189 (1970). National Statuary Hall, however, may be used for ceremonies when special permission is given by the Speaker. See Ch. 36, *infra*.

The responsibility for policing the Capitol buildings and grounds is vested in the Capitol Police, under the direction of the Capitol Police Board.<sup>(10)</sup> On several ex-

1. See § 1.1, *infra*.

2. See Ch. 17, *infra*.

3. See 40 USC §§ 161–217a.

4. For a description of the powers and duties of the Architect of the Capitol see 40 USC § 162 (1970).

5. 40 USC § 163 (1970).

6. 40 USC § 163a (1970).

7. 40 USC § 166 (1970).

8. 40 USC § 167 (1970).

9. 40 USC § 190 (1970).

10. 40 USC § 212a (1970). The Capitol Police Board consists of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol. 40 USC § 212a (1970).

traordinary occasions, however, Federal troops have been called to protect the Capitol.<sup>(11)</sup>

The protection of the Capitol building and grounds<sup>(12)</sup> is regulated by statutory provisions<sup>(13)</sup> that limit the conduct and activities which are permitted to occur there. Public use of the Capitol grounds is generally confined to paved areas,<sup>(14)</sup> and the roads on the grounds may not be occupied in such manner as to obstruct or hinder their proper use.<sup>(15)</sup> Sales and solicitations are forbidden, as are advertising displays.<sup>(16)</sup> A provision also makes punishable climbing upon, removing or damaging any property or plant life on the Capitol grounds.<sup>(17)</sup> The unauthorized presence upon the floor of either House, in the gallery of either House, or in any room within any of the Capitol buildings designated for the use of any Member, committee, subcommittee, or employee of either House of Congress is statutorily prohibited.<sup>(18)</sup>

11. See § 1.2, *infra*.

12. The area comprising the Capitol grounds is described at 40 USC § 193a (1970).

13. 40 USC §§ 193a–193m (1970).

14. 40 USC § 193b (1970).

15. 40 USC § 193c (1970).

16. 40 USC § 193d (1970).

17. 40 USC § 193e (1970).

18. 40 USC § 193f(b)(1)–(3) (1970).

### ***Creation of Select Committees***

#### **§ 1.1 The House sometimes creates a special select committee to manage or oversee the operation of a designated House facility.**

On Dec. 6, 1967,<sup>(19)</sup> the House adopted a resolution creating a select committee to manage the House Beauty Shop. The resolution vested complete managerial authority in the three-member committee, which was to be appointed by the Speaker. The select committee was made permanent by Pub. L. No. 91–145 (83 Stat. 347).

The House has adopted similar resolutions on several other occasions. In the 90th Congress<sup>(20)</sup> the House adopted a resolution creating a select committee to regulate parking on the House side of the Capitol. In the 91st Congress<sup>(1)</sup> the House established a select committee to oversee the management of the House Restaurant.<sup>(2)</sup>

19. 113 CONG. REC. 35143, 90th Cong. 1st Sess.

20. 113 CONG. REC. 17791, 17792, 90th Cong. 1st Sess., June 28, 1967.

1. 115 CONG. REC. 19080, 19081, 91st Cong. 1st Sess., July 10, 1969.

2. The responsibility for the management of the House Restaurant is, by statute, vested in the Architect of the Capitol. 40 USC § 174k (1970).

### ***Protection of Capitol by Federal Troops***

#### **§ 1.2 Federal troops have been called upon to guard the Capitol and its facilities on several extraordinary occasions.**

On Apr. 5, 1968, in response to the widespread civil disorder that arose in the District of Columbia following the assassination of Dr. Martin Luther King in Memphis, Tennessee, the preceding day, President Lyndon B. Johnson issued an executive order<sup>(3)</sup> authorizing the Secretary of Defense to mobilize National Guard Troops and to order regular armed forces into the District of Columbia to restore law and order, protect government property and prevent interference with governmental activities. The Capitol was one of the first areas secured when the troops arrived on Friday, Apr. 5. Troops remained on duty at the

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The Committee on House Administration has jurisdiction of measures relating to the House Restaurant. Rule XI clause 9(1), *House Rules and Manual* §693 (1973). The Select Committee on the House Restaurant, which supervises the operation of the restaurant, now operates under the authority of the Committee on House Administration. *House Rules and Manual* §695 (1973).

3. Executive Order No. 11403, 33 Fed. Reg. (1968).

Capitol until Friday, Apr. 12, when they were withdrawn on order of the Secretary of Defense.

The deployment of troops was in accordance with the Emergency Plan for Protection of the Capitol, which had been previously approved by the Speaker of the House and the Vice President of the United States. Specific authority was neither requested by nor received from the Speaker or other Capitol officials prior to the assignment of troops to guard the Capitol.

On Feb. 25, 1943,<sup>(4)</sup> Speaker Sam Rayburn, of Texas, from the floor of the House, defended his policy of having the Capitol protected by federal soldiers for a time during World War II:

Mr. Speaker, I am utterly amazed at my colleague from Minnesota, a man usually of splendid judgment and absolute fairness.

We have on this hill \$180,000,000 worth of property. . . .

. . . It happens to be the business of the Speaker of the House of Representatives to protect the property on this hill, and it cannot be protected by a few Metropolitan Police. . . . [S]ome day or some night somebody may come into this building and destroy a million dollars worth of property. As long as I have the responsibility, I am going to keep somebody here to protect these buildings.

4. 89 CONG. REC. 1324, 78th Cong. 1st Sess.

## § 2. Demonstrations and Disturbances

Federal statutory provisions<sup>(5)</sup> make violent, disorderly or disruptive acts in the Capitol building or on the Capitol grounds unlawful, as well as prohibiting all unauthorized demonstrations. The unauthorized possession or use on the Capitol grounds of any firearm, dangerous weapon, explosive, or incendiary device is unlawful.<sup>(6)</sup> The unauthorized presence of any person or any group of persons upon the floor or in the gallery of either House of Congress is a violation of federal statutory law, as is unauthorized presence in any room within any of the Capitol buildings set aside or designated for the use of either House of Congress or any Member, committee, subcommittee, officer, or employee of either House of Congress, with the intent to disrupt the orderly conduct of official business.<sup>(7)</sup> It is also unlawful to willfully and knowingly utter abusive language at any place upon the Capitol grounds with the intent to disturb the orderly conduct of any session of either House of Congress, including committee or subcommittee hearings;

5. 40 USC §§ 193f and 193g (1970).

6. 40 USC § 193f(a)(1) (1970).

7. 40 USC § 193f(b)(1)–(3) (1970).

to impede passage through or within the Capitol grounds or Capitol buildings; to engage in any act of physical violence upon the Capitol grounds or within any of the Capitol buildings; or to parade, demonstrate, or picket within any of the Capitol buildings.<sup>(8)</sup>

On Nov. 6, 1972,<sup>(9)</sup> the Supreme Court ruled that section 193g of title 40 unconstitutionally abridges the first amendment right to assemble and petition the government. Section 193g provides:

It is forbidden to parade, stand, or move in processions or assemblages in said United States Capitol Grounds, or to display therein any flag, banner, or device designed or adapted to bring into public notice any party, organization, or movement, except as hereinafter provided in sections 193j and 193k of this title.

Sections 193j and 193k provide that on “proper occasions” the prohibitions contained in sections 193b–193g may be suspended by the President of the Senate and the Speaker of the House, or in their absence by the Capitol Police Board.

The Jeannette Rankin Brigade, a coalition of women against the

8. 40 USC § 193f(b)(4)–(7) (1970).

9. *Chief of Capitol Police v Jeannette Rankin Brigade*, 409 U.S. 972 (Nov. 6, 1972).

war in Vietnam, and 58 individual women filed a complaint in the United States District Court for the District of Columbia on Jan. 8, 1968, following the refusal by the Capitol Police Board to permit them to carry out a planned march on the Capitol grounds to protest the war. The three-judge court balanced the plaintiffs' right to assemble and petition the government under the First Amendment against the interests of maintaining the serenity of the Capitol grounds and concluded:

While some substantial governmental interests in the Capitol Grounds may warrant protection, none have been alleged which are sufficiently substantial to override the fundamental right to petition "in its classic form" and to justify a blanket prohibition of all assemblies, no matter how peaceful and orderly, anywhere on the Capitol Grounds.<sup>(10)</sup>

The court refused to rewrite the provision to make it consistent with the First Amendment rights of the plaintiffs, stating that under the concepts embodied in the separation of powers doctrine, such a function is more appropriately to be performed by Congress.<sup>(11)</sup>

The defendants took a direct appeal from the decision of the Dis-

trict Court to the Supreme Court. The Supreme Court, acting without a hearing and with no written opinion, affirmed the decision of the District Court holding section 193g to be unconstitutional.<sup>(12)</sup>

On Mar. 1, 1954,<sup>(13)</sup> an extraordinary incident occurred in the House Chamber. A discharge of firearms from the House Gallery interrupted the counting of a division vote on a resolution relating to the supplying of agricultural workers from Mexico. Four Puerto Rican terrorists in Gallery Eleven fired an estimated 20 to 30 pistol shots downward into the crowd of Members on the floor. Five Members were wounded. All five of the wounded Members were discharged from the hospitals by the end of May, 1954.

The four assailants were identified by police as belonging to the Puerto Rican Nationalist Party. They were brought to trial in the U.S. District Court for the District of Columbia. Three of the four were sentenced to serve a total of from 25 to 75 years in prison, while the fourth was sentenced to serve from 16 years and months to 50 Years.

10. *Jeannette Rankin Brigade v Chief of Capitol Police*, 342 F Supp 575, 585 (D.D.C. 1972).

11. 342 F SUPP at 587.

12. *Chief of Capitol Police v Jeannette Rankin Brigade*, 409 U.S. 972 (Nov. 6, 1972).

13. 100 CONG. REC. 2434, 83d Cong. 2d Sess.

### § 3. Hall of the House

Under House Rule I clause 3, the Speaker has “general control . . . of the Hall of the House.”<sup>(14)</sup> A more specific provision dealing with the use of the House Chamber, however, is Rule XXXI:

The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings of its Members, except upon occasions where the House by resolution agrees to take a part in any ceremonies to be observed therein; and the Speaker shall not entertain a motion for the suspension of this Rule.<sup>(15)</sup>

The House has been very reluctant to permit the Chamber to be used for other than legislative purposes. An occasion on which the House permitted the Chairman of the Isthmian Canal Commission to address the House, relative to the construction of the Panama Canal, was characterized as “[a]n exceptional instance in which the Hall of the House was used for other than legislative business.” 8 Cannon’s Precedents §3632.

Members may not entertain guests in the Hall,<sup>(16)</sup> but caucus meetings of Members are some-

14. *House Rules and Manual* §623 (1973).

15. *House Rules and Manual* §918 (1973).

16. §3.2, *infra*.

times held in the Chamber, as Rule XXXI specifically authorizes them.<sup>(17)</sup> Occasionally the House votes to participate in ceremonies to be held in the Hall.<sup>(18)</sup>

It is in violation of the common law of the House for a visitor, without authorization, to photograph the House Chamber.<sup>(19)</sup> However, the House, by resolution, sometimes permits special groups, such as historical societies, to photograph the House in session,<sup>(20)</sup> and the Speaker usually permits a photograph of the House in session to be taken on the first day of each Congress.<sup>(1)</sup>

#### *Use of House Chamber*

#### § 3.1 The House Chamber is occasionally used for certain meetings of Members.

On Jan. 10, 1947,<sup>(2)</sup> an announcement was made in the House concerning a meeting to be

17. §3.1, *infra*.

18. See Ch. 36, *infra*.

19. See §3.5, *infra*.

It is not necessary, however, to clear the gallery when one visitor is violating the rules by taking pictures. The Speaker may order the offending party to leave the gallery. See §5.7, *infra*.

20. See §3.5, *infra*.

1. See §3.5, *infra*.

2. 93 CONG. REC. 255, 80th Cong. 1st Sess.



held in the House Chamber for the veterans of all wars who were Members of the House at that time. The stated purpose of the meeting was the reorganization of a veterans' group, and this meeting, as well as all future ones, was to be nonpolitical, social, and educational in character.

**§ 3.2 Permission to use the Hall of the House for purposes of entertainment will ordinarily be refused.**

On Feb. 14, 1955,<sup>(3)</sup> Speaker Sam Rayburn, of Texas, after reading the text of Rule XXXI, made the following remarks concerning the use of the Hall of the House:

A great many Members have asked the Parliamentarian and the present occupant of the chair about the use of the Hall of the House of Representatives. At any time in the future when any Member desires to entertain a group except Members of the House of Representatives it will be held that the caucus room is open for that purpose, but not the Hall of the House of Representatives.

On June 18, 1934,<sup>(4)</sup> the House adopted a resolution forbidding certain entertainment, which was to be broadcast over radio, to be

3. 101 CONG. REC. 1512, 84th Cong. 1st Sess.

4. 78 CONG. REC. 12567, 73d Cong. 2d Sess.

held in the House Chamber immediately after the adjournment of Congress.

**§ 3.3 The House controls the use of its Chamber even after it adjourns for a session.**

On June 18, 1934,<sup>(5)</sup> a resolution was introduced to prevent the use of the House Chamber after the adjournment of Congress for certain entertainment which was to be broadcast over radio. A Member then raised the point of order that the resolution was not privileged, because it was contemplated that the entertainment would be held after the adjournment of the House. The Speaker<sup>(6)</sup> rendered the following ruling on the point of order:

The object of the resolution is to reach something which might occur after the adjournment of the House, but the Chair thinks it is a close question. The House controls the use of its own Chamber even after it adjourns; therefore the Chair prefers to submit the question to the House.

The previous question was then ordered, and the resolution was agreed to.

**§ 3.4 On one occasion the House authorized a special group to use the House Chamber when the House was not in session.**

5. *Id.*

6. Henry T. Rainey (Ill.).

On Aug. 1, 1953,<sup>(7)</sup> the House by unanimous consent considered and adopted the following resolution:

*Resolved*, That the consent of the House is hereby granted for the use by the Interparliamentary Union of the Hall of the House of Representatives, and such committee rooms in the Capitol and the House Office Buildings as the Speaker may direct, for its session in the year 1953, during the month of October: *Provided, however*, That this consent shall not be binding if the Congress shall be in session when the said Interparliamentary Union shall convene: *And provided further*, That such use shall be subject to the control and management of the officers of the House.

### ***Photographing the House Chamber***

#### **§ 3.5 Visitors may not, without authorization, photograph the House Chamber.**

*Parliamentarian's Note:* Under the practice of the House, permission must be obtained before photographs may be taken inside the House Chamber. Permission may take the form of a House resolution similar to the one which permitted the United States Capitol Historical Society to photograph the House in session.<sup>(8)</sup>

7. 99 CONG. REC. 10917, 83d Cong. 1st Sess.

8. See 110 CONG. REC. 3224, 88th Cong. 2d Sess., Feb. 20, 1964.

The Speaker traditionally permits certain photographers to take photographs at the opening session of each new Congress, provided that they do so in accordance with carefully drawn guidelines. Occasionally members of the news media have violated these guidelines. At the opening session of the 91st Congress, members of the news media violated the restrictions by taking pictures during the period when the kleig lights were turned out. Speaker McCormack called this matter to the attention of the news media galleries and requested a report from each on the action taken by them with respect to the violations of the regulations as well as the provisions they were making to prevent such violations in the future.<sup>(9)</sup>

On Jan. 14, 1946, photographers violated the guidelines by taking a picture of the House in session before the initial quorum call. The photograph, showing approximately 60 Members present in the Chamber, was published in newspapers throughout the country, along with a caption berating Congress for not attending to duties at the beginning of the ses-

9. See the statement by Speaker John W. McCormack (Mass.) at 115 CONG. REC. 145, 91st Cong. 1st Sess., Jan. 6, 1969.

sion. See the statement by Speaker pro tempore John W. McCormack, of Massachusetts, at 92 CONG. REC. 20, 79th Cong. 2d Sess., Jan. 14, 1946.

## § 4. Admission to House Floor

House Rule XXXII clause 1<sup>(10)</sup> enumerates those persons entitled to be admitted to the floor or rooms leading thereto,<sup>(11)</sup> while the House is in session:

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, the Resident Commissioner to the United States from Puerto Rico, each Delegate to the House, such persons as have, by name, received the thanks of Congress, ex-Members of the House of Representatives who are not interested in any claim or directly in any bill pending before Congress, elect-

ed officers and elected minority employees of the House (other than Members), the Parliamentarian and former Parliamentarians of the House, former elected officers and former elected minority employees of the House (other than ex-Members) who are not interested in any claim or directly in any bill pending before Congress, and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any Member for unanimous consent.

Rule XXXII clause 2 sets forth the conditions under which persons may be admitted to the floor when the House is not in session:

There shall be excluded at all times from the Hall of the House of Representatives and the cloakrooms all persons not entitled to the privilege of the floor during the session, except that until fifteen minutes of the hour of the meeting of the House persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of Members, by card or in writing, may be admitted.

The provision that prohibits the Speaker<sup>(12)</sup> from entertaining a request for the suspension of Rule XXXII has been rigidly enforced during regular sessions.<sup>(13)</sup>

12. This provision in Rule XXXII clause 1 is equally applicable to the Chairman of the Committee of the Whole. 5 Hinds' Precedents § 7285.

13. See § 4.2, *infra*; 5 Hinds' Precedents § 7284.

10. *House Rules and Manual* § 919 (1973).

11. See § 4.1, *infra*.

On the occasion of ceremonies, however, the provision is construed more broadly.<sup>(14)</sup>

At joint meetings of Congress, although Rule XXXII is observed, it is recognized under the customs and practices of the House that one of the purposes of a joint meeting is to permit selected people who do not have floor privileges to come upon the floor.<sup>(15)</sup>

Several of the classes of persons entitled to floor privileges under Rule XXXII have been further defined in rulings by the Chair. "Contestants" in election contests have been granted the privilege of the House floor even though they were not themselves candidates in the general election.<sup>(16)</sup> A concur-

rent resolution expressing the thanks of Congress does not entitle the recipient to floor privileges under Rule XXXII. The expression of thanks must be in the form of an act of Congress,<sup>(17)</sup> and the recipient must be named.<sup>(18)</sup> The type of interest in the legislation under consideration that is sufficient to disqualify an ex-Member from the privilege of the floor has been interpreted on several occasions.<sup>(19)</sup>

The rule has been interpreted so as to exclude from the privilege of the floor clerks other than those employed by the committee in charge of the bill under consideration.<sup>(20)</sup> Similarly, floor privileges are not extended to employees of

14. Illustrative of this point is an occurrence described in 5 Hinds' Precedents §7290. On Dec. 19, 1894, Speaker Charles F. Crisp (Ga.) submitted a unanimous-consent request that a State Governor and his staff be admitted to the floor during a ceremony the following day, despite the provision in Rule XXXII that prohibits submission of such requests. The Speaker considered the rule to apply only when the House was engaged in the transaction of ordinary business.

15. See §4.4, *infra*. But see 5 Hinds' Precedents §9272, which states that the rule relating to admission to the floor does not apply to joint sessions of the two Houses.

16. See §4.5, *infra*.

17. See §4.6, *infra*.

18. 8 Cannon's Precedents §3638.

19. Speaker Sam Rayburn (Tex.) held that employment by an organization with a direct interest in the legislation under consideration was sufficient. For an interpretation of this provision by a committee of Congress, see 5 Hinds' Precedents §7289.

20. 8 Cannon's Precedents §3636.

Rule XXXII, which permits clerks of committees access to the floor during the consideration of business from their committee, has been interpreted by the Speaker to allow only a limited number of clerks on the floor at one time. 118 CONG. REC. 20318, 92d Cong. 2d Sess., June 8, 1972.

an executive department who have assisted the committee in the preparation of the bill under consideration.<sup>(1)</sup> United States Senators have been held not to possess the privilege of addressing the House, although they may be present on the House floor.<sup>(2)</sup>

In addition to the floor privileges granted under Rule XXXII, certain representatives of the press and broadcast media may be admitted to the floor under House Rule XXXIV:

2. . . . [A]nd the Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.<sup>(3)</sup>

3. . . . [A]nd the Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, one of the Mutual Broadcasting System, and one of the American Broadcasting Company.<sup>(4)</sup>

The House may grant to someone not entitled to floor privileges under the House rules the rare honor of special admission to the

privileges of the floor for a regular session of the House. This has been done, however, only on several early occasions.<sup>(5)</sup>

The Doorkeeper, as part of his general duties,<sup>(6)</sup> enforces strictly the rules relating to the privileges of the Hall of the House<sup>(7)</sup> and allows no person to enter the room over the Hall while the House is in session.<sup>(8)</sup>

He also sees that the floor is cleared of all persons without floor privileges 15 minutes before each meeting of the House and for 10 minutes after adjournment.<sup>(9)</sup>

An alleged violation of the rules relating to admission to the floor presents a question of privilege.<sup>(10)</sup>

1. 6 Cannon's Precedents § 579.

2. See § 4.8, *infra*.

3. *House Rules and Manual* § 930a (1973).

4. *Id.*

5. On Feb. 10, 1870, the privileges of the floor for a day were extended to John Kitts, a Revolutionary War soldier, who had seen the surrender of Cornwallis. 5 Hinds' Precedents § 7293. On Jan. 8, 1844, the House extended the privileges of the floor to the widow of President Madison. 5 Hinds' Precedents § 7081.

6. For a more detailed discussion of the duties of the Doorkeeper, see Ch. 6, *infra*.

7. Rule V clause 1, *House Rules and Manual* § 651 (1973).

8. Rule V clause 2, *House Rules and Manual* § 653 (1973).

9. Rule V clause 2, *House Rules and Manual* § 653 (1973).

10. 6 Cannon's Precedents § 579.3 Hinds' Precedents §§ 2624–25.

***Rooms Adjacent to Floor***

**§ 4.1 Persons who are not entitled to floor privileges under Rule XXXII may not be admitted to the “Hall of the House or rooms leading thereto,” which include the cloakroom and the Speaker’s lobby.**

On Oct. 2, 1945,<sup>(11)</sup> the following proceedings occurred:

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(12)</sup> The gentleman will state it.

MR. KEEFE: Mr. Speaker, rule XXXII of the Rules of the House of Representatives reads, in part:

The persons hereinafter named and none other shall be admitted to the halls of the House or rooms leading thereto. . . .

. . . [D]oes the language “or rooms leading thereto” include the lobby and reading room adjacent to the House floor?

THE SPEAKER: The Chair may say to the gentleman from Wisconsin [Mr. Keefe] that the present occupant of the Chair has always been very jealous of all the rules of the House, and especially this one.

The Chair thinks that no person who is not named in the rule should have the privilege of the floor of the House of Representatives or to the cloakroom

or to the Speaker’s lobby, so-called, where Members and the newspaper folk and others that are privileged to be in there confer.

***Suspension of Rule Relative to Floor Privileges***

**§ 4.2 The Chair may not entertain a request to suspend Rule XXXII, which enumerates those persons entitled to admission to the House floor.**

On Mar. 25, 1940,<sup>(13)</sup> prior to the consideration of a bill to provide revenue for the District of Columbia, the following unanimous-consent request was made:

MR. [JACK] NICHOLS [of Oklahoma]: . . . First, Mr. Speaker, I ask unanimous consent that an expert who has aided this committee in the preparation of this bill be permitted to sit at the committee table.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Reserving the right to object, Mr. Speaker, I am afraid this would be establishing quite a precedent. It is contrary to the rules of the House.

MR. NICHOLS: I may say to the gentleman from Massachusetts that when similar bills were considered on two previous occasions on the floor of the House the same request was made and agreed to. Certainly there is precedent for such action in the House.

THE SPEAKER:<sup>(14)</sup> The Chair observes that under the rules the Chair cannot entertain such a request.

11. 91 CONG. REC. 9251, 79th Cong. 1st Sess.

12. Sam Rayburn (Tex.).

13. 86 CONG. REC. 3359, 76th Cong. 3d Sess.

14. William B. Bankhead (Ala.).

MR. NICHOLS: Similar requests have been submitted and granted when previous tax bills have been under consideration, Mr. Speaker.

THE SPEAKER: Rule XXXIII [now Rule XXXII], which enumerates those persons entitled to the floor, provides, in part, as follows:

It shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the Chair the request of any Member for unanimous consent.

This is the general rule relating to admission to the floor of the House.

Of course, personally, the Chair has no feeling in the matter. Although it may have been done heretofore, the attention of the Chair was not called to it.

### *Joint Sessions of Congress*

#### **§ 4.3 Prior to a scheduled joint meeting of Congress, the Speaker frequently announces that only persons with floor privileges will be admitted to the floor during the joint meeting.**

The following announcement, made by Speaker John W. McCormack, of Massachusetts, on Jan. 10, 1967,<sup>(15)</sup> is typical:

15. 113 CONG. REC. 34, 35, 90th Cong. 1st Sess. For further illustrations see 111 CONG. REC. 27, 89th Cong. 1st Sess., Jan. 4, 1965; 107 CONG. REC. 1340, 87th Cong. 1st Sess., Jan. 26, 1961; 97 CONG. REC. 4072, 82d Cong. 1st Sess., Apr. 18, 1951.

THE SPEAKER: The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that at the time set for the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open. No one will be allowed on the floor of the House who does not have the privileges of the floor of the House. The Chair suggests that ex-Members of the House seat themselves in the folding chairs so that sitting Members may find their accustomed places in the Chamber.

*Parliamentarian's Note:* On Apr. 14, 1948, Speaker Joseph W. Martin, Jr., of Massachusetts, addressed a letter to all Members of the House suggesting that they refrain from attempting to bring children or relatives on the floor, during the upcoming celebration of the 50th anniversary of the liberation of Cuba.

#### **§ 4.4 Although Rule XXXII, which enumerates those persons entitled to floor privileges, is observed at joint meetings of Congress, it is recognized that under the customs and practices of the House, one of the purposes of a joint meeting is to permit people who do not have the privilege of the floor to come upon the floor.**

On Feb. 24, 1970,<sup>(16)</sup> the following parliamentary inquiry was raised:

MR. [BERTRAM L.] PODELL [of New York]: Mr. Speaker, I should like to make a parliamentary inquiry.

THE SPEAKER:<sup>(17)</sup> The gentleman will state his parliamentary inquiry.

MR. PODELL: I should like to know whether or not on tomorrow, at 12:30, during the address by President Pompidou to the joint meeting of the House of Representatives and the Senate, whether Rule 32 of the Rules of the House of Representatives relating to admissions to the floor will be recognized, or whether those rules will be suspended?

THE SPEAKER: The answer to that is that the rule will be recognized, but the purpose of the joint meeting is to receive the visitor who will come to the House Chamber. The Chair will follow the rules of the House.

MR. PODELL: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PODELL: I should like to know whether or not rule 32, which relates to the restriction of those people to be admitted to the floor, will be observed tomorrow, or whether it will be suspended because it is a joint meeting or because the House is in recess?

THE SPEAKER: The Chair will state that one of the purposes of a joint meeting is to permit people who do not have the privilege of the floor to come upon the floor.

MR. PODELL: . . . I shall read to you [rule] 32 of the Rules of the House of Representatives relating to admission to the floor.

The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect. . . .

It continues on with a few more categories, and it says that no other person shall be admitted to the floor and the Speaker may not request such permission under the appropriate provisions.

THE SPEAKER: In further response to the gentleman's inquiry, the Chair will follow the customs and the practices of the House when there is a joint meeting taking place.

### ***Contestants in Election Contests***

**§ 4.5 On one occasion challengers in an election contest were considered to be "contestants" who were entitled to floor privileges pursuant to Rule XXXII during the pendency of their case, even though they had not been candidates in the election in which the sitting Members were re-elected.**

*Parliamentarian's Note:* On Sept. 16, 1965, three of the five representatives of the Mississippi Freedom Democratic Party who

16. 116 CONG. REC. 4546, 91st Cong. 2d Sess.

17. John W. McCormack (Mass.).



were contesting the re-election of the five sitting Members of the House from Mississippi, requested permission from the Speaker to be present on the floor the following day for the debate relative to their cases. Under Rule XXXII, “contestants in election cases during the pendency of their cases in the House”<sup>(18)</sup> are entitled to floor privileges. Since none of the challengers had been actual candidates in the congressional elections the previous November, however, their status as “contestants” within the meaning of Rule XXXII was in doubt. The challengers had been defeated in the Democratic primary, and state law had not permitted them to be candidates in the general election. They alleged that the State of Mississippi had systematically excluded blacks from the electoral process, and that the election was therefore without constitutional validity. The Speaker<sup>(19)</sup> noting that both the resolution dismissing the election contests (H. Res. 585) and the report of the Committee on House Administration (H. Rept. No. 1008, 89th Cong. 1st Sess. [1965]), referred to the petitioners as contestants, ruled that they were “contestants”

18. Rule XXXII clause 1, *House Rules and Manual* §919 (1973).

19. John W. McCormack (Mass.).

within the meaning of Rule XXXII, and were therefore entitled to be present on the floor during the consideration of their challenges.<sup>(20)</sup>

### ***Recipients of Congressional Appreciation***

#### **§ 4.6 A concurrent resolution expressing the thanks of Congress, because it is not an act of Congress, is not sufficient to bestow floor privileges, under Rule XXXII.**

*Parliamentarian's Note:* The House, on July 20, 1962,<sup>(1)</sup> and the Senate, three days later,<sup>(2)</sup> passed a concurrent resolution (H. Con. Res. 347) expressing the thanks of Congress to General of the Army, Douglas MacArthur. In response to an informal inquiry, the Parliamentarian, on Aug. 10, 1962, informed a Member that while Rule XXXII extends floor privileges to “such persons as have, by name, received the

20. For a Member's statement during the debate on the resolution dismissing the election contests acknowledging the presence of the three contestants on the floor, see 111 CONG. REC. 24267, 24268, 89th Cong. 1st Sess., Sept. 17, 1965.

1. 108 CONG. REC. 14329, 87th Cong. 2d Sess.

2. 108 CONG. REC. 14528, 87th Cong. 2d Sess., July 23, 1962.

thanks of Congress,"<sup>(3)</sup> the concurrent resolution passed in favor of General MacArthur was not an act of Congress and did not bestow the privilege.

### ***Ex-Members of the House***

**§ 4.7 An ex-Member who has a direct interest in a bill pending before Congress or who is in the employ of an organization with such an interest may not enjoy the privilege of the floor during pendency thereof that is normally afforded ex-Members by Rule XXXII.**

On Oct. 1, 1945, a former Member, Winder Harris, was present at the majority table while the House was considering a ship-sales bill. [*Parliamentarian's Note*: Winder Harris was at the time an officer in a ship-building firm.] The following day,<sup>(4)</sup> the propriety of his presence was questioned:

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:<sup>(5)</sup> The gentleman will state it.

MR. KEEFE: Mr. Speaker, rule XXXII of the Rules of the House of Representatives reads, in part:

3. Rule XXXII clause 1, *House Rules and Manual* §919 (1973).
4. 91 CONG. REC. 9251, 79th Cong. 1st Sess., Oct. 2, 1945.
5. Sam Rayburn (Tex.).

The persons hereinafter named and none other shall be admitted to the halls of the House or rooms leading thereto.

Then follows a list of those permitted, including:

Ex-Members of the House of Representatives who are not interested in any claim or directly in any bill pending before the Congress.

. . . [D]oes the quoted rule bar from the halls of the House or rooms leading thereto ex-Members of Congress who are in the employ of organizations, corporations, or individuals that have a direct interest in the defeat or passage of a bill pending and under debate in the House?

THE SPEAKER: The Chair may say to the gentleman from Wisconsin [Mr. Keefe] that the present occupant of the chair has always been very jealous of all the rules of the House, and especially this one. The Chair thinks that not even an ex-Member of Congress when he has a bill he is personally interested in that is coming up for consideration in the House nor any ex-Member of the House who is in the employ of an organization that has legislation before the Congress should be allowed the privilege of the House or the rooms that . . . constitute a part of the House of Representatives.

### ***United States Senators***

**§ 4.8 Since United States Senators have the privilege of the floor, but not the privilege of addressing the House, the Speaker will not recognize a Member who wishes to**

**request unanimous consent for consideration of a resolution inviting Members of the Senate to address the House; such a resolution will be referred to the proper committee.**

On Oct. 11, 1943,<sup>(6)</sup> after several Members expressed a desire that the House invite five Members of the Senate, who had just returned from the war fronts to address the House, Speaker Sam Rayburn, of Texas, made a statement on the subject, which was followed by several clarifying parliamentary inquiries:

The Chair does not intend to recognize a Member to ask unanimous consent for the present consideration of a resolution inviting Senators to address the House in open or executive session, because the Chair thinks that is tantamount to an amendment to the rules of the House and, therefore, is a matter for the House to determine. If resolutions like that are introduced, they will be sent to the proper committee.

MR. [JOHN E.] RANKIN [of Mississippi]: A parliamentary inquiry, Mr. Speaker.

THE SPEAKER: The gentleman will state it.

MR. RANKIN: Of course, the Speaker has a right to refuse to recognize me for that purpose, but I think if the Speaker will investigate the rules he will find that we have a right to invite those men to come here to address the Members in the House.

THE SPEAKER: The Chair has already investigated that and finds it is otherwise. Members of the Senate have the privilege of the floor, but they do not have the privilege of addressing the House of Representatives.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN: Would it be within the rules to have a recess, as we do when foreign potentates and rulers come here, and have the Senators come over and talk to us?

THE SPEAKER: If the House stands in recess at that time.

## B. HOUSE GALLERIES AND BUILDINGS

### § 5. Galleries

The House rules vest in the Speaker control over the galleries in the House Chamber. Under

6. 89 CONG. REC. 8197, 8198, 78th Cong. 1st Sess.

Rule XXXII<sup>(7)</sup> the Speaker is responsible for assigning sections of the galleries. He sets aside a portion of the West Gallery for the President of the United States,

7. *House Rules and Manual* §922 (1973).

cabinet members, Supreme Court Justices, foreign ministers and suites, and their respective families and another portion for persons to be admitted on the card of Members. The southerly half of the East Gallery is assigned for the use of Members' families. Representatives of the press<sup>(8)</sup> and broadcast media<sup>(9)</sup> are each entitled to have a portion of the gallery set aside for their use, subject to such regulations as the Speaker may prescribe. Supervision of these two portions of the gallery, including the designation of employees, is vested respectively in a standing committee of press correspondents and a second committee, the Executive Committee of the Radio and Television Correspondents' Gallery. Both of these committees, however, are subject to the direction and control of the Speaker.<sup>(10)</sup>

The Speaker, when he deems it necessary to protect the Members' and the Houses' facilities, may order special admission cards for the galleries or a search of visitors.<sup>(11)</sup> As part of his regular du-

ties under Rule I,<sup>(12)</sup> the Speaker preserves order and decorum in the galleries, and in the case of disturbance or disorderly conduct, he may order the galleries cleared.<sup>(13)</sup> When the House has resolved itself into the Committee of the Whole, the Chairman may exercise similar power in preserving order in the galleries.<sup>(14)</sup>

The Doorkeeper frequently distributes tickets for admission to the galleries on special occasions.<sup>(15)</sup> Sometimes the House, by resolution, makes a special rule for admission to the galleries on the occasion of the electoral count<sup>(16)</sup> or some other occurrence of great interest.<sup>(17)</sup>

Rule XIV clause 8<sup>(18)</sup> prohibits a Member, while the House is in session, from introducing to or bringing to the attention of the House any occupant in the galleries. The Speaker may not entertain a request for the suspension of this rule by unanimous consent or otherwise,<sup>(19)</sup> and if it

8. Rule XXXII, *House Rules and Manual* §922 (1973).

9. Rule XXXIV clause 3, *House Rules and Manual* §930a (1973).

10. Rule XXXIV clauses 2 and 3, *House Rules and Manual* §§930 and 930a (1973).

11. See §5.1, *infra*.

12. *House Rules and Manual* §§621-634 (1973).

13. Rule I clause 2, *House Rules and Manual* §622 (1973).

14. Rule XXIII clause 1, *House Rules and Manual* §861 (1973).

15. See §5.2, *infra*.

16. 3 Hinds' Precedents §1961.

17. 5 Hinds' Precedents §7033.

18. *House Rules and Manual* §764 (1973).

19. Rule XIV clause 8, *House Rules and Manual* §764 (1973).

is violated without objection from the other Members present in the Chamber, he will invoke it on his own initiative.<sup>(20)</sup>

The rules and practices of the House do not permit visitors in the galleries to manifest their approval or disapproval of the proceedings on the floor by applause or otherwise.<sup>(1)</sup>

On occasions when circumstances have warranted it, announcements by the Chair admonishing visitors in the galleries not to applaud have usually been sufficient to restore order.<sup>(2)</sup> Under the customs and practices of the House, a visitor in the galleries may not, without authorization, photograph the House Chamber.<sup>(3)</sup> The Speaker may find that it is not necessary to clear the galleries when one visitor is violating the rule. He may just order the offending party to leave the House Chamber.<sup>(4)</sup>

### ***Speaker's Control Over Admission of Visitors***

#### **§ 5.1 When the Speaker's responsibility to protect the**

20. See § 5.3, *infra*.

1. See § 5.6, *infra*.

2. See § 5.6, *infra*.

3. See § 3.5, *supra*.

4. See § 5.7, *infra*.

#### **Members and the facilities require it, he may order special admission cards for the galleries or a search of visitors.**

On Feb. 23, 1942,<sup>(5)</sup> Speaker Sam Rayburn, of Texas, set forth the reasons for ordering the issuance of new gallery admission cards and the search of visitors entering the galleries:

THE SPEAKER: One of the responsibilities of the Speakership is the protection of the Members and the places in which they work. This responsibility, of course, is a little more anxious one right now than in ordinary times, and anything that is done or any regulation that is issued is issued after the best and most competent advice the Speaker is able to get.

Some time ago cards were issued and no one was allowed to come into the gallery without one. These cards have been outstanding for some time, and I am sorry to say they have been widely distributed, many of them mailed to distant points in the country. The Chair and those who advise him have decided that it is best to revoke all outstanding cards of admission to the galleries. New cards have been printed and will be distributed to the Members today and tomorrow, as the cards to the gallery outstanding will not be honored after Wednesday morning. . . .

Another thing that those who advise me think is highly advisable is that

5. 88 CONG. REC. 1524, 77th Cong. 2d Sess.

the people entering any of the galleries, except the Members' gallery, submit themselves to search. This is thought wise and judicious by men who will be in the Capitol and who will be competent for the work.

I hope this may not seem too irksome to some of our people who may come to Washington. I am willing to take this responsibility for the reason that if a mishap occurs around the Capitol somebody has got to take the responsibility, and I am willing to share my part of it. So I hope the cards that will be issued in lieu of those outstanding may be handed in Washington to visitors and constituents of yours and not be mailed around the country.

*Parliamentarian's Note:* Following the shooting which occurred in the House Chamber on Mar. 1, 1954,<sup>(6)</sup> the Speaker canceled all outstanding gallery admission cards, effective the day following the shooting. New cards were printed for distribution the following day, with a request being made to all Members by the Speaker that gallery cards be issued only to persons who could be vouched for by each Member issuing the new cards.

### ***Distribution of Gallery Tickets for Special Occasions***

#### **§ 5.2 The distribution of tickets for seats in the gallery for special occasions is the re-**

6. See §2, *supra*.

#### **sponsibility of the Doorkeeper of the House.**

On Feb. 28, 1945,<sup>(7)</sup> a Member on the minority side made an inquiry of the Chair concerning the allocation of gallery tickets for an upcoming joint session of Congress. The Member alleged that the majority generally receives all of the approximately 100 tickets that remain after each Member of the House and Senate receives one ticket. In response, the Speaker *pro tempore*<sup>(8)</sup> declared that the tickets are distributed in a proper and equitable way, and stated that the matter was the responsibility of the Doorkeeper.

#### ***Reference by Members to Visitors Present in Galleries***

#### **§ 5.3 It is a violation of Rule XIV clause 8 to introduce or call attention to anyone in the galleries, and the Speaker, on his own initiative, will invoke this provision.**

On Apr. 16, 1940,<sup>(9)</sup> the following proceedings occurred:

7. 91 CONG. REC. 1594, 1595, 79th Cong. 1st Sess.
8. John W. McCormack (Mass.).
9. 86 CONG. REC. 4589, 76th Cong. 3d Sess. For further examples see 110 CONG. REC. 2264, 88th Cong. 2d Sess., Feb. 6, 1964; 109 CONG. REC. 10157, 10158, 88th Cong. 1st Sess., June 4, 1963; 100 CONG. REC. 12253, 83d Cong. 2d Sess., July 27, 1954.

MR. [BERNARD J.] GEHRMANN [of Wisconsin]: Mr. Speaker, I am very proud to be able to announce that there are two children in the gallery——

THE SPEAKER PRO TEMPORE:<sup>(10)</sup> The gentleman from Wisconsin will suspend. The Chair calls the gentleman's attention to the fact that it is a violation of the rules of the House for a Member on the floor to introduce anyone in the gallery.

MR. GEHRMANN: Mr. Speaker, I beg the Chair's pardon, but I am not introducing them. I just want to say that there are two children who were stranded in Finland in the war zone. They got out of there just before——

THE SPEAKER PRO TEMPORE: The gentleman's remarks are still a violation of the rules of the House.

MR. GEHRMANN: Mr. Speaker, it would seem that the extraordinary occasion, the fact that the State Department interested itself——

THE SPEAKER PRO TEMPORE: The time of the gentleman from Wisconsin has expired.

*Parliamentarian's Note:* On several occasions,<sup>(11)</sup> a Member, in violation of Rule XIV clause 8,<sup>(12)</sup> has called the presence of certain visitors in the gallery to the attention of the House. The remarks were made without objection by

10. Sam Rayburn (Tex.).

11. 111 CONG. REC. 6022, 6023, 89th Cong. 1st Sess., Mar. 25, 1965; 111 CONG. REC. 5637, 89th Cong. 1st Sess., Mar. 23, 1965.

12. *House Rules and Manual* §764 (1973).

other Members present in the Chamber, and the Speaker<sup>(13)</sup> did not invoke the rule because at the time he was engaged in conversation at the rostrum and was unable to hear the remarks.

**§ 5.4 It is not in order under Rule XIV clause 8 to refer to visitors in the galleries, even with permission to proceed out of order.**

On July 27, 1954,<sup>(14)</sup> a Member attempted to direct the attention of the House to a French nurse, a heroine of the Battle of Dien Bien Phu, who was seated in the gallery:

MR. [WALTER H.] JUDD [of Minnesota]: Mr. Chairman, I appreciate the gentleman's courtesy in permitting this short interlude. One of the things that always thrills everybody in the world is courage and devotion to duty, especially when under most trying and dangerous circumstances. I appreciate the opportunity to call attention to the presence in our gallery——

THE CHAIRMAN:<sup>(15)</sup> The gentleman from Minnesota will suspend. The Chair regrets extremely——

MR. JUDD: Mr. Chairman, I ask unanimous consent to proceed out of order.

THE CHAIRMAN: The gentleman may not proceed out of order for the pur-

13. John W. McCormack (Mass.).

14. 100 CONG. REC. 12253, 83d Cong. 2d Sess.

15. Benjamin F. James (Pa.).

pose [for] which he manifestly intends to use the time. The Chair regrets extremely that he must so hold under the rules of procedure of the House. We are all conscious of the great heroism of the person to whom the Chair knows that the gentleman wishes to allude, but it is a matter of extreme regret that because of the rules of the House, reference may not be made to anyone in the gallery.

**§ 5.5 It is a violation of Rule XIV clause 8 for a Member to insert in the *Congressional Record* a reference to visitors present in the galleries.**

*Parliamentarian's Note:* On June 13, 1968,<sup>(16)</sup> a Member was given permission to address the House for one minute and revise and extend his remarks. In revising his statement for the *Congressional Record*, he inserted a reference to visitors who had been present in the galleries, and sent the statement directly to the Government Printing Office instead of returning it to the Official Reporters of Debate. The Government Printing Office was advised to contact the Official Reporters of Debate or the Parliamentarian in the event similar violations of the rules are attempted.

***Conduct of Gallery Occupants; Sanctions***

**§ 5.6 Under the rules and practices of the House visitors in**

16. 114 CONG. REC. 17062, 90th Cong. 2d Sess.

**the galleries may not manifest their approval or disapproval of proceedings on the floor by applause or otherwise.**

On occasion it has become necessary for the Chair to admonish guests in the galleries that they must maintain order and refrain from manifestations of approval or disapproval of the proceedings on the floor.<sup>(17)</sup>

The following statement made by the Chairman of the Committee of the Whole, Chet Holifield, of California, on July 31, 1969,<sup>(18)</sup> is typical:

The Chair will state that visitors in the gallery are guests of the House of Representatives. Under the rules and practices of the House of Representatives, visitors in the gallery are not permitted to make undue noise or to applaud or to in any way show their pleasure or displeasure as to the actions of the Members of the House.

**§ 5.7 It is not necessary to clear the gallery when one visitor is violating the rules by taking pictures; the Speaker may order the of-**

17. See, e.g., 111; CONG. REC. 27449, 91st Cong. 2d Sess., Aug. 5, 1970; 116 CONG. REC. 14449, 91st Cong. 2d Sess., May 6, 1970; 112 CONG. REC. 16837, 89th Cong. 2d Sess., July 25, 1966.

18. 115 CONG. REC. 21634, 91st Cong. 1st Sess.



### **fending party to leave the gallery.**

On Feb. 22, 1950,<sup>(19)</sup> a visitor with a camera was detected in the gallery:

THE SPEAKER:<sup>(20)</sup> The Chair understands there is a camera in the gallery. Whoever has that camera will remove the camera or remove themselves and the camera immediately. That is a violation of the rules of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, a parliamentary inquiry. In that case, it is not the rule to clear the gallery?

THE SPEAKER: Not necessarily.

MR. RANKIN: To clear them of those who are violating the law.

THE SPEAKER: The Chair has just made that suggestion.

## **§ 6. Office Buildings**

The House office buildings are under the control and supervision of the Architect of the Capitol, subject to the approval and direction of the House Office Building Commission.<sup>(1)</sup> The commission consists of the Speaker and two Members appointed by the Speaker.<sup>(2)</sup> The commission is author-

ized to prescribe rules and regulations governing the use and occupancy of rooms in the House office buildings.<sup>(3)</sup>

The procedure for the assignment of rooms in the House office buildings is provided by statute<sup>(4)</sup> and by rules adopted by the House Office Building Commission.<sup>(5)</sup> Section 178 of title 40 provides that the assignment of vacant offices will be based on written requests filed by Members or Members-elect. If only one such request has been made for a particular vacant office, it will be assigned as requested. If two or more Members request the same vacant office, preference will be

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his successor as Speaker is elected or his term as a Representative in Congress expires.

19. 96 CONG. REC. 2152, 81st Cong. 2d Sess.

20. Sam Rayburn (Tex.).

1. 40 USC § 175 (1970).

2. 40 USC § 175 (1970). Under 40 USC § 176 (1970), the Speaker continues as a member of the commission until

3. 40 USC § 175 (1970). Section 183 of title 40 provides that the assignment and reassignment of rooms and other space in the House office buildings shall be subject to the control of the House by rule, resolution, order, or otherwise, and that nothing in sections 177–184 of title 40 (discussed below) shall be construed to affect or repeal the provisions of section 175 of the same title, which places the House office buildings under the control of the Architect of the Capitol, subject to the approval and direction of the House Office Building Commission.

4. 40 USC §§ 177–184 (1970).

5. *House Rules and Manual* §985 (1971).

given to the one “who has been longest in continuous service as a Member and Member-elect of the House.”<sup>(6)</sup> If two or more Representatives with equal periods of continuous service, or two or more Representatives-elect request the same vacant office, preference will be given to the one who first files a request.

A Representative or Representative-elect may not have pending at the same time more than one request under section 178 for a vacant room, but he may withdraw a request at anytime.<sup>(7)</sup> A Member will be deemed to have relinquished the room previously assigned to him when he is assigned a new room upon his request, or is appointed chairman of a committee having a committee room.<sup>(8)</sup> Representatives may exchange rooms with each other, but the exchange will be valid only so long as both remain Members or Members-elect of the House.<sup>(9)</sup> Records of room assignments, exchanges and requests, which are kept by the Architect of the Capitol, are open for the inspection of Members.<sup>(10)</sup>

6. For an interpretation of the term “continuous service,” see §6.1. *infra*.

7. 40 USC § 179 (1970).

8. 40 USC § 179 (1970).

9. 40 USC § 180 (1970).

10. 40 USC § 181 (1970).

The House Office Building Commission has adopted rules of procedure for the assignment of vacant offices that are designed to clarify the statutory procedures defined in section 178 of title 40.<sup>(11)</sup> Under these provisions, if an office becomes vacant during a session of Congress, applications for the vacancy will be received for a period of 10 days. The system of priority established in section 178 is generally applicable, in addition to a provision that would establish priority by lot in the event that applications are received at the same time from Members with equal periods of service. Applications from re-elected Members and former Members who wish to change offices at the beginning of a new Congress are received between the Monday following election day on the even years and Dec. 1. The seniority provisions of section 178 again establish priority. On Dec. 5, Members-elect without prior service, or their representatives, draw numbers to determine the order of se-

11. The rules are reprinted in *House Rules and Manual* §985 (1973). In 1968 the commission promulgated a similar set of rules based on seniority to govern the assignment of remodeled rooms in the Cannon House Office Building. See 114 CONG. REC. 22155, 90th Cong. 2d Sess., July 18, 1968.

lection-of the remaining offices. Those who do not participate in the drawing must file written applications for the offices that remain unassigned after the conclusion of the drawing. Members of Congress who will not be Members of the succeeding Congress must vacate their offices by 12 o'clock noon on January 1 before the new Congress convenes.

It is provided by statute that unoccupied space in the House office buildings shall be assigned by the Architect of the Capitol under the direction of the commission and subject to the control of the House of Representatives. 40 USC § 184 (1970).

The commission also adopts rules regulating conduct of persons within the House office buildings, House garages, and the Capitol power plant. For example, on Aug. 26, 1965, the commission promulgated rules which, among other things, regulated soliciting and the taking of photographs within the House office buildings and related facilities.<sup>(12)</sup>

12. 111 CONG. REC. 23926, 23927, 89th Cong. 1st Sess., Sept. 15, 1965. The regulations make subject to arrest and prosecution those persons who fail to comply with the above provisions, or with those sections which prohibit damaging public property, possessing weapons and explosives, creating disturbances, or obstructing any area covered by the regulations.

At one time,<sup>(13)</sup> the seniority of a Member for the purpose of room assignment dated from the beginning of his last uninterrupted service regardless of previous terms of membership in the House. This interpretation of "continuous service", which was rendered on Feb. 8, 1930, by Speaker Nicholas Longworth, of Ohio, as Chairman of the House Office Building Commission, was changed by the commission on Feb. 27, 1967. Under this current ruling, a Member who has had more than one period of uninterrupted service is entitled to have his longest period of uninterrupted service used in determining room assignment priority, even if it is not his last such period.<sup>(14)</sup>

### *Assignment of Office Suites to Members*

**§ 6.1 If two or more Members request the same office suite, preference will be given to the Member with a longest period of uninterrupted service, even if it is not his latest period of service.**

On Mar. 2, 1967,<sup>(15)</sup> Speaker John W. McCormack, of Massa-

13. 8 Cannon's Precedents § 3651.

14. See § 6.1, *infra*.

15. 113 CONG. REC. 5218, 90th Cong. 1st Sess.

chusetts, as Chairman of the House Office Building Commission, announced the rule of the commission concerning the computation of seniority, as it relates to the selection and assignment of office space:

MR. MCCORMACK: Mr. Speaker, for the information of the Members, I include an action recently taken by the House Office Building Commission:

ASSIGNMENT OF ROOMS, HOUSE  
OFFICE BUILDINGS

In connection with assignment of rooms to Members of the House of Representatives in the House Office Buildings, 40 U.S.C. 178 provides, in part, as follows:

If two or more requests are made for the same vacant room, preference shall be given to the Representative making the request who has been longest in continuous service as a Member and Member-elect of the House of Representatives.

The question was raised before the House Office Building Commission as to whether the wording "longest continuous service" should refer to any period of continuous service whether or not such continuous service occurred before or after a break in service in the House.

At a meeting of February 27, 1967, the House Office Building Commission unanimously ruled on this point, as follows:

"The term 'longest continuous service' as used in 40 U.S.C. 178, governing seniority in assignment of rooms in the House Office Buildings, is held to refer to the longest period of

uninterrupted service as a Member and Member-elect of the House of Representatives (not necessarily the last period of uninterrupted service as held in Cannon's Precedents, Vol. 8, Page 981, Sec. 3651)."

This ruling is effective February 27, 1967 and is being submitted as a matter of record for the information of all Members of the House of Representatives.

***Visitors in House Office Buildings***

**§ 6.2 The House Office Building Commission has jurisdiction over matters relating to the harassment of visitors in the House office buildings.**

On May 3, 1935,<sup>(16)</sup> a parliamentary inquiry was raised concerning the jurisdiction of and the rules adopted by the commission:

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, may I propound a parliamentary inquiry?

THE SPEAKER:<sup>(17)</sup> The gentleman will state it.

MR. BLANTON: The Speaker of the House of Representatives is the Chairman of the House Office Building Commission in charge of the House Office Building and which controls these office buildings.

I would like to ask the Speaker if there are any means that a Member

16. 79 CONG. REC. 6894, 74th Cong. 1st Sess.

17. Joseph W. Byrns (Tenn.).

has, under the regulations prescribed by the Commission governing these buildings, to prevent a Washington newspaper from installing a snooper at his office to interrogate and harass every person that goes in or comes out of a Member's office in that Government building?

THE SPEAKER: The Commission is composed of 3 Members and the Speaker is only 1 of the 3. I would be pleased if the gentleman would take the matter up with the Commission as a whole. We will be very pleased to give the gentleman a hearing and discuss the matter with him.

### ***Rules and Regulations as to Use***

#### **§ 6.3 Rules and regulations governing the House office buildings have been adopted by the House Office Building Commission.**

On Mar. 5, 1973, the House Office Building Commission adopted the following rules:

Pursuant to the authority conferred on the House Office Building Commission by the act of March 4, 1907 (34 Stat. 1365, as amended (40 U.S.C. 175)) the following rules and regulations are promulgated governing the use and occupancy of rooms and spaces, including all terraces, entrances, lobbies, foyers, corridors, cafeterias, restaurants and areas appurtenant thereto, in the Cannon, Longworth, and Rayburn House Office Buildings, in the House Annex, the House of Representatives garages, and the Capitol Power Plant:

(1) Property damage: Willful destruction, damage, desecration or removal of any Government property or part thereof is prohibited.

(2) Photographs: Photographing, televising, recording, or broadcasting of committee proceedings is not permitted, except as provided for by the Rules of the House. Visitors are permitted to take photographs of the public areas in the House office buildings with handheld cameras if the photographs are not intended for commercial purposes. The use of flash equipment or other special photolighting devices, tripods, or other bulky accessory equipment is not permitted unless special permission is obtained from the House Office Building Commission. Applications for such special permission should be made to the Speaker.

(3) Soliciting, commercial ventures, and other nongovernmental activities: The soliciting of alms and contributions, commercial soliciting, and vending of all kinds, the display or distribution of commercial advertising, the collecting of private debts, or the distribution of material such as pamphlets, handbills, and flyers, in any of the areas covered by these regulations is prohibited. This section does not apply to national or local drives for funds for welfare, health, and other purposes sponsored or approved by the House Office Building Commission, or to personal notices posted by employees on authorized bulletin boards.

(4) Weapons and explosives: No person, except members of the Capitol Police and individuals authorized by law, shall enter any of the areas covered by these regulations who has in his possession, either openly or concealed, any dangerous or deadly weapon, explosive,

incendiary, or electronic device, and the use or discharge thereof is prohibited.

(5) Disturbances: The making or any harangue, oration, or the utterance of any loud, threatening, or abusive language or sound, or the use of any device which emits any loud, threatening, or abusive language or sound, is prohibited.

(6) Obstruction: It is forbidden to parade, stand, or move in processions or assemblages, or to obstruct the foyers, corridors, rooms or other areas covered by these regulations, or to display therein any flag, banner, or device designed or adapted to bring into public notice any person, party, organization, or movement.

(7) Compliance with regulations: Persons entering, in, or on the areas covered by these regulations shall comply with all official signs of a prohibi-

tory or directory nature, and, during emergencies, with directions of the Capitol Police or other authorized authority.

(8) Enforcement of regulations: It shall be the duty of all persons employed in the service of the Government in the House Office Buildings to prevent, as far as may be in their power, violations of these regulations, and to aid the Capitol Police and other authorized authority, by information or otherwise, in securing the apprehension of persons violating these regulations.

Any person who fails or refuses to comply with these regulations, or who fails or refuses to comply with directives of the Capitol Police or other authorized personnel, shall be subject to arrest and prosecution.